

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-1199.M2

NOTICE OF INDEPENDENT REVIEW DECISION

Date: September 29, 2003

RE: MDR Tracking #: M2-03-1708-01
IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by an Orthopedic Surgeon physician reviewer who is board certified in Orthopedic Surgery and has ADL certification. The Orthopedic Surgeon physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This review involves a then 57-year-old right-handed male who apparently strained the right elbow and shoulder as he caught a 50-60 pound box which he nearly dropped while carrying it on the job ___. Initial and subsequent evaluations including x-ray and MRI studies suggested impingement at the shoulder which was treated arthroscopically; as well as biceps tendinitis or partial tear of the distal biceps, which has been managed conservatively by way of a multitude of chiropractic physical therapy measures, activity modification, medications, and at least one injection into the elbow. Significantly, the injured employee had a previous resection of the radial head and perhaps the radial tuberosity some 15 years earlier as a result of probable childhood elbow fracture/trauma with resultant post-traumatic arthritis prior to this work event of ___. More recent evaluation of the right upper extremity included an electromyogram study of 02/26/03, which suggested mild ulnar nerve slowing across the elbow as well as abnormalities to median and radial nerves suggestive of peripheral polyneuropathy. Currently proposed is surgery of ulnar nerve transposition to the elbow. This brief summary does not do justice to the more than 2 inches of files reviewed dating back to some 3 years.

Requested Service(s)

The current specific service requested is to review and address the medical necessity of the proposed ulnar nerve transportation.

Decision

I agree with the insurance carrier as well as the previous orthopedic reviewer that the requested surgery should be denied on the basis of the information provided me.

Rationale/Basis for Decision

Review of the electromyogram specifics, as well as the clinical picture fairly well described by the examining physician, ____, suggests that the requesting surgeon has not appreciated the patient's true condition. While the patient ultimately did complain of some dysesthesias well after the simple strain event, the description of digit locking (trigger fingers) as well as the numbness/tingling to the long and ring fingers-symptoms not readily consistent with the proposed surgery. It may well be a serious mistake to perform the surgery without further appropriate evaluation. The condition of polyneuropathy is more typical of diabetes, alcoholism, the result of long-standing remote traumatic changes, or a variety of other conditions that have not been evaluated or discussed. Additionally as suggested, there should be some consideration of electromyogram testing of other extremities to put this in perspective. The requesting surgeon apparently has not provided even the minimum of pertinent clinical findings to support the request for surgery as of the office note of 04/29/03, and indeed is somewhat contrary to other examiners. While perhaps not part of this review officially, it is my distinct impression after thorough review of the documents provided, that the current neurologic symptoms have little, if anything, to do with the work injury of ____.

If disputing a spinal surgery prospective decision, a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

If disputing other prospective medical necessity (preauthorization) decisions, a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk
P.O. Box 17787
Austin, Texas 78744
Fax: 512-804-4011

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.